

needs.<sup>8</sup> As to the availability of alternate channels to precluded communities, we are told that Channel 272A could be assigned to either Troup or Overton, Texas. However, our staff could not confirm this assertion. No alternate channel is said to be available at Big Sandy, Texas. As for Gladewater, it avers that site selection is limited, unsuitable near the Gladewater airport and subject to undesirable terrain features. Nevertheless, we are asked to ignore preclusion as a factor because the request is for a first broadcast outlet.<sup>9</sup> However, our policy with regard to preclusion clearly states that suburban communities are treated differently than more isolated communities for a proposed assignment's preclusive impact<sup>10</sup> and preclusion is a factor we take into account in comparing mutually exclusive proposals.

10. Brown urges that Channel 255 be assigned to Carthage. He has, in combination with Smith County, proposed a plan whereby both Whitehouse and Carthage could each receive a first fulltime local aural service albeit at the expense of Gladewater. In support, Brown/Smith County state that Carthage itself is of equal population with Gladewater, but whereas Carthage has daytime-only AM service, Gladewater has fulltime local service authorized. Although a Class C channel is not generally assigned to communities the size of Carthage, no other channels are said to be available for assignment. The Gladewater conflict cannot be avoided if Carthage is to be assigned a channel. Brown asserts that Carthage is an isolated community (the closest larger city is Marshall, Texas, approximately 40 kilometers (25 miles) away).

11. In its reply comments, Hines attempted to demonstrate that a Tyler assignment is feasible at a site east of the city. However, we consider the showing marginal in that the small open area indicated is bounded by a 104.5 mile spacing arc and a 8.25 mile signal contour. The curves we use to measure the predicted field intensity of a signal (§§ 73.211(b), 73.313 (a)-(e), 73.314, 73.315(a) and 73.333 of the Commission's rules) provides 8 miles for a Class A station. It would be necessary for a proponent to take actual measurements to overcome this presumption. Without this information it cannot be concluded that the required signal strength would

be provided to Tyler. Certainly, under the Commission's priorities, a first local service at Whitehouse would be favored over a 4th FM and 8th local station at Tyler. Although we expressed some doubt as to Whitehouse's need for an FM station in the *Notice*, we now find that sufficient information has been provided to justify a Whitehouse assignment and that to use the 10-mile rule to accomplish this service would offer no benefit.

12. We are therefore left with conflicting requests for Channel 257A at Gladewater (Tyler B/C/Gemini) or for both Whitehouse and Carthage (Ch. 255) (Smith County/Brown) with site restrictions. In a non-comparative case, the requested Gladewater assignment would have merit. However, when compared, Gladewater has fulltime service authorized while Carthage has only daytime local service and Whitehouse has none. Furthermore, the provision of two services at two communities (Whitehouse and Carthage) is to be favored over the single FM service to be provided at Gladewater. Preclusion would not be significantly greater for the Whitehouse assignment than for the Gladewater proposal. Therefore, we find that the Whitehouse and Carthage proposals should be adopted. A site restriction will be necessary at Carthage of approximately 22.5 kilometers (14 miles) east.

13. Accordingly, it is ordered, That effective May 23, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the communities listed below:

City	Channel No.
Carthage, Texas.....	255
Whitehouse, Texas.....	257A

14. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.261 of the Commission's Rules.

15. It is further ordered, That this proceeding is terminated.

16. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-12107 Filed 4-18-80; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 215

[Docket Number RSFC-6, Notice 3]

#### Railroad Freight Car Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

**SUMMARY:** This document amends the final rule published on December 31, 1979 (44 FR 77328), which revised the Railroad Freight Car Safety Standards (49 CFR Part 215).

The amendments relate to pre-departure inspections; defective cars received in interchange; defective roller bearing; stenciling of maintenance-of-way equipment; and door safety hangers. This action is taken by FRA in response to two petitions for reconsideration of the final rule.

**EFFECTIVE DATE:** This amendment becomes effective on June 1, 1980. However, prior compliance is authorized and encouraged.

**FOR FURTHER INFORMATION CONTACT:** Principal Program Person: Rolf Mowatt-Larssen, Office of Safety, Federal Railroad Administration, Room 7315, 400 Seventh Street SW., Washington, DC 20590, phone 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Room 8209, 400 Seventh Street SW., Washington, DC 20590, 202-426-8836.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Regulatory Reform

Pursuant to Executive Order 12044, FRA published a final rule revising the Freight Car Safety Standards on December 31, 1979 (44 FR 77323). After publication of the final rule, FRA received petitions for reconsideration from the Railway Labor Executives Association (RLEA) and the Association of American Railroads (AAR). This publication announces amendments to the final rule in response to the concerns expressed by petitioners.

The following is an explanation of the amendments made by FRA in response to those petitions. The sequence of changes discussed generally corresponds to the order in which they appear in the text of the final rule. However, pre-departure inspections and related issues are discussed first because they are of major concern to both petitioners.

<sup>8</sup> Citing *Saegertown, Pa.*, Dkt. 20812, 41 FR 44414, 38 R.R. 2d 913 (1976).

<sup>9</sup> Citing *Denair, Calif.*, Dkt. 21411, 43 FR 8805, 42 R.R. 2d 503 (1978).

<sup>10</sup> See *Policy Statement to Govern Requests for Additional FM Assignments*, 8 F.C.C. 2d 79 (1967).



**I. Pre-Departure Inspections and Related Issues.** Both AAR and RLEA requested that FRA reconsider § 215.13 (pre-departure inspection) and § 215.11 (designation of qualified persons).

AAR suggested that the pre-departure inspection requirement be withdrawn. Alternatively, AAR requested that the rule be rewritten to reinstate the two-level inspection provisions of the former standards. Under former § 215.9(b), a railroad was permitted to move defective cars from locations where a designated inspector is not on duty if available personnel determine that the car is safe to move to the next location where a designated inspector is on duty.

RLEA's concern with § 215.13 focused on the qualifications that FRA should require for the person designated to conduct the pre-departure inspection. RLEA requested that the designated inspector have a level of training and experience equal to that of a journeyman carman.

Sections 215.13 and 215.11, as amended in this notice, prescribe a modified two-level inspection. A complete inspection for compliance with all provisions of the Freight Car Safety Standards will be required to be conducted by a designated inspector at locations where one is on duty to inspect freight cars. At other locations, a pre-departure inspection shall be made by available personnel for specific conditions listed as in Appendix D, that are imminently hazardous, i.e., likely to cause an accident or casualty before the train arrives at its destination. These conditions can be readily discovered by train crew members in the course of an ordinary inspection. However, neither inspection relieves the railroad of liability for failure to comply with all of the provisions of the Freight Car Safety Standards.

At locations where cars are inspected by someone who is not a designated inspector, the options for handling defective cars are limited to: (1) Setting the car out or (2) calling in a designated inspector to either repair the car or tag it for movement for repair in accord with § 215.9. An option no longer permitted is the movement of defective cars without bad order tags to a location where a designated inspector is on duty.

FRA believes that strict liability for defective cars coupled with the modified two-level inspection will enhance safety by providing the necessary incentive and flexibility for railroads to deploy their inspection and maintenance personnel to promptly discover and repair defective cars.

In response to RLEA's concern about the qualifications of persons who determine whether a defective car is

safe to move, FRA has amended § 215.11. While not adopting the "journeyman carman" suggestion, the amended section explicitly provides that determinations under § 215.9 (Movement for Repair) shall be made by a designated inspector having the qualifications prescribed in § 215.11 (Designated Inspectors).

Section 215.9 has been clarified by a new paragraph (d) that provides that the movement of defective cars for repair must be made in accord with restrictions imposed in a Special Notice for Repairs issued by an FRA or State inspector.

**II. Other Issues. Defective Cars Received in Interchange:** The AAR expressed concern that railroads would be held strictly liable for defects in cars received in interchange before they had an opportunity to inspect or otherwise to exercise any control over the cars. FRA has amended § 214.5(e)(4) to provide that a car that has been delivered in interchange is not "in service" until the receiving railroad accepts the car by moving it or otherwise exercising control over it. It should be noted, however, that the delivering railroad remains liable for each defective car it tenders in interchange.

#### **Defective Roller Bearing**

At issue in § 215.115 is the appropriate test for detecting defective roller bearings following a derailment. The position of AAR is that defects are more likely to be discovered by manual rotation of the roller bearing. FRA believes that the more effective method is to spin the wheel set, a technique employed by many railroads. Section § 215.115 has been amended to permit either method to be used. However, when a railroad opts to rotate the bearing manually, care must be exercised because the presence of lubricant and the fact that the bearing is not under load tend to reduce sounds made by small defects, whereas when the wheel set is rotated, the weight on the bearing magnifies these sounds.

#### **Stenciling of Maintenance-of-Way Equipment**

In response to the concern expressed in the AAR petition that the stenciling requirements in § 215.305 of the final rule might interfere with existing computer tracking systems, FRA has amended these requirements to provide that "MW" must be stenciled in letters at least 2 inches high at any location on each side of this equipment.

#### **Door Safety Hangers**

AAR requested a six year extension for compliance with § 215.121(d), which mandates that box car side doors be



equipped with safety hangers or the equivalent by September 1, 1980. FRA considers installation of safety hangers to be one of the most critical freight car safety requirements. Since 1974 there have been 7 fatalities directly attributable to box car door failure, 5 of which involved plug doors that did not have safety hangers. Accident reports for each fatality have been filed in the docket for this proceeding and are available for examination during regular business hours (9 a.m.-5 p.m.), in room 8211 Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590.

FRA acknowledges that constraints of personnel and materials and design differences necessitate a limited extension of this deadline. According to the AAR, more than 100,000 plug door cars are not equipped with safety hangers. FRA has extended the deadline for completion of these modifications to July 1, 1982.

FRA, while granting the extension, reasserts its belief that the modifications are of utmost importance and should be expedited. Accordingly, petitions for further extensions beyond July 1, 1982, will not receive a favorable reception.

Both the AAR and RLEA petitions requested a number of other changes that were denied by FRA. Copies of these petitions together with the FRA letters of reply have been placed in the docket for this proceeding.

#### Impact Assessments

FRA has considered the economic, environmental, and small business impacts of this amendment to the Freight Car Safety Standards. This amendment has no discernable impact on the Regulatory Evaluation of the final rule published in the *Federal Register* (44 FR 77328). Since this amendment also meets the seven criteria that establish an action as a non-major action, it does not constitute a major action requiring an environmental assessment. Finally, FRA has determined that this amendment does not have any significant or special impact on small business.

In consideration of the foregoing, Part 215 of Title 49, Code of Federal Regulations, is amended, effective June 1, 1980, as set forth below:

#### Appendix D—[Added]

1. To the list of appendices at the beginning of the Part add:

#### Appendix D—Pre-departure inspection procedure

2. Paragraph (e) of § 215.5 is amended to read as follows:

#### § 215.5 Definitions.

\* \* \* \* \*

(e) "In service" when used in connection with a railroad freight car, means each railroad freight car subject to this part unless the car—

(1) Has a "bad order" or "home shop for repairs" tag or card containing the prescribed information attached to each side of the car and is being handled in accordance with § 215.9 of this part;

(2) Is in a repair shop or on a repair track;

(3) Is on a storage track and is empty;

or

(4) Has been delivered in interchange but has not been accepted by the receiving carrier.

\* \* \* \* \*

3. Section 215.9 is amended by adding a new paragraph (d) that reads as follows:

#### § 215.9 Movement of defective cars for repair.

\* \* \* \* \*

(d) Nothing in this section authorizes the movement of a freight car subject to a Special Notice for Repairs unless the movement is made in accordance with the restrictions contained in the Special Notice.

4. Section 215.11 is amended to read as follows:

#### § 215.11 Designated inspectors.

(a) Each railroad that operates railroad freight cars to which this part applies shall designate persons qualified to inspect railroad freight cars for compliance with this part and to make the determinations required by § 215.9 of this part.

(b) Each person designated under this section shall have demonstrated to the railroad a knowledge and ability to inspect railroad freight cars for compliance with the requirements of this part and to make the determinations required by § 215.9 of this part.

(c) With respect to designations under this section, each railroad shall maintain written records of—

- (1) Each designation in effect; and
- (2) The basis for each designation.

5. Section 215.13 is revised to read as follows:

#### § 215.13 Pre-departure inspection.

(a) At each location where a freight car is placed in a train, the freight car shall be inspected before the train departs. This inspection may be made before or after the car is placed in the train.

(b) At a location where an inspector designated under § 215.11 is on duty for the purpose of inspecting freight cars, the inspection required by paragraph (a)



of this section shall be made by that inspector to determine whether the car is in compliance with this part.

(c) At a location where a person designated under § 215.11 is not on duty for the purpose of inspecting freight cars, the inspection required by paragraph (a) shall, as a minimum, be made for those conditions set forth in Appendix D to this part.

(d) Performance of the inspection prescribed by this section does not relieve a railroad of its liability under § 215.7 for failure to comply with any other provision of this part.

6. Paragraph (b)(1)(B) and (b)(2)(B) of § 215.115 are amended to read as follows:

**§ 215.115 Defective roller bearing.**

(b) \* \* \*

(1) \* \* \*

(A) \* \* \*

(B) Spinning freely its wheel set or manually rotating the bearing to determine whether the bearing makes any unusual noise.

(2) \* \* \*

(A) \* \* \*

(B) It makes any unusual noise when its wheel set is spun freely or the bearing is manually rotated.

\* \* \*

7. Paragraph (d) of § 215.121 is amended as follows:

**§ 215.121 Defective car body.**

\* \* \*

(d) After July 1, 1982, the car is a box car and its side doors are not equipped with operative safety hangers, or the equivalent, to prevent the doors from becoming disengaged.

\* \* \*

8. Paragraph (b) of § 215.305 is revised to read as follows:

**§ 215.305 Stenciling of maintenance of-way equipment.**

\* \* \*

(b) The letters "MW" must be—

(1) at least 2 inches high; and

(2) placed on each side of the car.

9. To the appendices of Part 215, the following Appendix is added:

\* \* \*

**Appendix D—Pre-departure Inspection Procedure**

At each location where a freight car is placed in a train and a person designated under § 215.11 is not on duty for the purpose of inspecting freight cars, the freight car shall, as a minimum, be inspected for the imminently hazardous conditions listed below that are likely to cause an accident or casualty before the train arrives at its destination. These conditions are readily

discoverable by a train crew member in the course of a customary inspection.

**1. Car Body:**

- (a) Leaning or listing to side.
- (b) Sagging downward.
- (c) Positioned improperly on truck.
- (d) Object dragging below.
- (e) Object extending from side.
- (f) Door insecurely attached.
- (g) Broken or missing safety appliance.
- (h) Lading leaking from a placarded hazardous material car.

- 2. Insecure coupling.
- 3. Overheated wheel or journal.
- 4. Broken or extensively cracked wheel.
- 5. Brake that fails to release.
- 6. Any other apparent safety hazard likely to cause an accident or casualty before the train arrives at its destination.

(Secs. 202 and 209, 84 Stat. 971 and 975, 45 U.S.C. 431 and 438; and Sec. 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).)

Issued in Washington, D.C. on April 15,

1980.

John M. Sullivan,

Administrator.

[FR Doc. 80-11986 Filed 4-15-80; 3:30 pm]

BILLING CODE 4910-06-M

**Coast Guard**

**46 CFR Part 56**

[CGD 79-083]

**Tank Vent Piping for Great Lakes Vessels**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations regarding tank vent piping for Great Lakes vessels by eliminating language contained in § 56.50-85 of Title 46 to conform with the provisions of § 45.133. This action eliminates a source of confusion and establishes a uniform requirement for tank vent piping on Great Lakes vessels.

**EFFECTIVE DATE:** The rule is effective on May 21, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Mr. D. L. Ewing (202) 426-2187.

**SUPPLEMENTARY INFORMATION:**

On January 7, 1980, the Coast Guard published a proposed rule (45 FR 1431) concerning this amendment. The public was given until February 21, 1980, to submit comments. No comments were received and no public hearing was held. The proposed rule is therefore made final without change and without further discussion.

**Drafting information:** The principal persons involved in drafting this rule are Mr. D.L. Ewing, Project Manager, Office of Merchant Marine Safety, and Lieutenant Jack Orchard, Project Attorney, Office of the Chief Counsel.



**Discussion**

In consideration of the foregoing, Part 56 of Title 46 of the Code of Federal Regulations is amended by revising § 56.50-85(a)(5) to read as follows:

**§ 56.50-85 Tank vent piping.**

(a) \* \* \*

(5) Vents from fuel oil and other tanks extending above the freeboard or superstructure deck shall be of substantial construction. Except for barges in inland service and on Great Lakes vessels, the height from the deck to any point where water may gain access below deck shall be at least 30 inches on the freeboard deck, and 18 inches on the superstructure deck. On Great Lakes vessels, the height from the deck to any point where water may gain access below deck, shall be at least 30 inches on the freeboard deck, 24 inches on the raised quarterdeck, and 12 inches above other superstructure decks. Where height of vent pipes on Great Lakes vessels may interfere with the working of the vessel a lower height may be approved provided the vent cap is properly protected. Barges in inland service need provide a height of not less than 6 inches. A lesser amount may be approved if evidence is provided to the Commandant that a particular vent has proven satisfactory in service.

\* \* \*

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4417, as amended (46 U.S.C. 391); 49 Stat. 1889 as amended (46 U.S.C. 391a); R.S. 4462 as amended (46 U.S.C. 416).)

Dated: April 16, 1980.

W. D. Markle, Jr.,

Captain, U.S. Coast Guard, Acting Chief,  
Office of Merchant Marine Safety.

[FR Doc. 80-12138 Filed 4-18-80; 8:45 am]

BILLING CODE 4910-14-M

## COMMUNITY SERVICES ADMINISTRATION

**45 CFR Part 1060**

### General Characteristics of Community Action Programs; Income Poverty Guidelines (Revised)

**AGENCY:** Community Services  
Administration.

**ACTION:** Final rule.

**SUMMARY:** The Community Services Administration is revising its income poverty guidelines. The Economic Opportunity Act of 1964, as amended, requires yearly revisions of the poverty guidelines for use by every agency administering programs under the Act in which the poverty guidelines are used to judge eligibility for participating in programs. These annual revisions assure

that the income guidelines reflect the changes in the cost of living.

**EFFECTIVE DATE:** This rule is effective April 21, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Mary R. Ellyn, Policy, Planning and Analysis Division, Community Services Administration, Office of Policy, Planning and Evaluation, 1200 19th Street, N.W., Washington, D.C. 20506, Telephone: (202) 632-6630, Teletypewriter: (202) 254-6218.

**SUPPLEMENTARY INFORMATION:** The Community Services Administration revision of the updated poverty guidelines constitutes compliance with the legislatively mandated requirement of Section 624 of the Economic Opportunity Act of 1964, as amended. This revision is not significant according to Executive Order 12044 since the only change being made reflects the changes in the Consumer Price Index and is required by the previously mentioned Section of the EOA. The text defining "Income" and "A Farm Residence" remains unchanged. The policy regarding use of these guidelines is also unchanged by this revision.

This amendment to § 1060.2 revises the guidelines previously published in §§ 1060.2-1 and 1060.2-2.

**Authority:** The provisions of this subpart are issued under Section 602, 78 Stat. 530, 42 U.S.C. 2942.

William W. Allison,  
Acting Director.

45 CFR 1060.2-1 through 1060.2-2 is revised to read as follows:

**§ 1060.2-1 Applicability.**

This subpart applies to all grants financially assisted under Titles II, IV and VII of the Economic Opportunity Act of 1964, as amended, if such assist is administered by the Community Services Administration.

**§ 1060.2-2 Policy.**

(a) The attached income guidelines are to be used for all those CSA funded programs, whether administered by a grantee or delegate agency, which use CSA poverty income guidelines as admission standards. These guidelines do not supersede alternative standards of eligibility approved by CSA.

(b) The guidelines are also to be used in certain other instances where required by CSA as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.